

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

GLENDORA TURNER,)
Individually, and as)
Administratrix of the Estate of)
WILLIAM LEE TURNER,)
Deceased,)
)
Plaintiff,)

v.)

Case No.: 2:05-cv-702-mht-vpm

)
MERCK & CO., INC., a foreign)
Corporation, ANNE BRANDON,)
an individual, LAMONDE)
RUSSELL, an individual, *et al.*,)
)
Defendants.)

**NOTICE OF CASE INCLUSION IN CONDITIONAL TRANSFER ORDER
(CTO-23) OF JUDICIAL PANEL ON MULIDISTRICT LITIGATION**

COMES NOW, the Defendant Merck & Co., Inc. ("Merck"), and hereby notifies this Honorable Court that this case has been designated for transfer to the United States District Court for the Eastern District of Louisiana (MDL-1657) pursuant to Conditional Transfer Order (CTO-23) issued by the Judicial Panel on Multidistrict Litigation (JPML). Merck would further show the Court as follows:

1. On July 29, 2005, Merck filed a Motion to Stay (Doc. 5) all proceedings in this case pending JPML action on the issue of transfer to the multi-district proceeding in the Eastern District of Louisiana. Currently before the Court is that

Motion along with Plaintiff's Motion to Remand (Doc. 11) and opposition to the Motion to Stay (Doc. 10). Merck has also submitted responses to Plaintiff's Motion to Remand (Doc. 14) and to her objection to a stay (Doc. 15). These filings were taken under submission as of August 29, 2005.

2. Earlier, Merck notified the JPML of this action pursuant to the tag-along procedures contained in the MDL rules. On September 8, 2005, the JPML issued Conditional Transfer Order 22 (CTO-23) consisting of numerous cases tabbed for transfer to MDL. Attached hereto as **Exhibit A** is a copy of CTO-23.

3. This action is included in CTO-23. See Schedule CTO-23, p. 1. Assuming that Plaintiff does not object within the period set forth by the JPML rules, this action will be immediately transferred to MDL-1657, where it will be subject to coordination of all pretrial proceedings. See CTO-23, Exhibit A. The JPML has consistently overruled objections to transfer filed in response to previous conditional transfer orders.

4. Given the overlapping factual issues this case has with those already in the MDL proceedings, transfer of this case to the MDL is appropriate. Merck therefore informs this Court of CTO-23 and anticipates that this action will soon be formally transferred to MDL-1657. Merck therefore urges this Court to stay all proceedings in this case pending transfer to MDL-1657.

Date: September 13, 2005.

/s/Benjamin C. Wilson

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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Andy D. Birchfield, Jr.
J. Paul Sizemore
BEASLEY, ALLEN, CROW,
METHVIN, PORTIS, & MILES, P.C.
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/s/ Benjamin C. Wilson